

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Thomas Montril Brown,)	
)	
Petitioner,)	4:08-cv-70050-TLW
)	4:05-cr-00770-TLW
vs.)	
)	
United States of America,)	
)	
Respondent.)	
_____)	

ORDER

On April 21, 2008, the Petitioner filed this action under 28 U.S.C. § 2255. (Doc. #252). On April 28, 2009, the Respondent was ordered to respond to the petition within 30 days. (Doc. #253). On April 29, 2008, the Respondent filed a response and motion for summary judgment noting that no supporting memorandum had been filed and that the petition did not allege facts on which relief could be granted. (Doc. #256). On August 5, 2008, the Petitioner filed a memorandum of law in support of his initial petition. (Doc. #260). The petitioner also filed a reply to the Respondent's response on this date. (Doc. #261).

Subsequently, the Petitioner filed a motion to amend his petition and add four grounds for relief to his petition. (Doc. #262). All four grounds referenced in the motion to amend relate to alleged defects with Counts 2, 4, 6, 8, and 11 of the Indictment in this case. (Doc. #262). The Respondent filed a response in opposition to the motion to amend, noting that the proposed amendments were untimely. (Doc. #263). On April 6, 2009, the Petitioner filed a second motion to amend his original motion and add the four claims referenced in the prior motion to amend. (Doc. #264).

The Court has reviewed the filings by both parties, and determined that it is appropriate for the Court to consider both the memorandum of law in support of the motion to vacate as well as the proposed amendments to the original motion to vacate. For these reasons, the Petitioner's motions to amend his petition and add four claims related to Counts 2, 4, 6, 8, and 11 of the Indictment in this case, (Doc. #262, Doc. #264), are hereby **GRANTED**.

The Respondent is directed to file a Response to the Petitioner's original motion to vacate, as supplemented by the Petitioner's memorandum of law in support of his original motion, as well as the four grounds for relief detailed in the motions to amend within 60 days of the entry of this Order. Should the Respondent require an affidavit from trial defense counsel, Petitioner's trial counsel is hereby directed to file an affidavit responding to the allegations in Petitioner's Section 2255 petition within 30 days of this Order. If the Government does not timely receive trial defense counsel's affidavit and finds such affidavit necessary for its response, the Government may choose to file a motion to compel in order to obtain said affidavit from trial defense counsel. Whatever the status of the affidavit, the Government's response is due within 60 days, unless an extension is granted by this Court. Failure to respond as directed under this Order may result in the requested relief being granted.

IT IS SO ORDERED.

s/ Terry L. Wooten
United States District Judge

January 14, 2010
Florence, South Carolina